

§ 800.300

from the requirements of this regulation upon a finding by the Secretary that such deviation is necessary or appropriate in the individual case for the accomplishment of program objectives.

(b) The contracting officer may, subject to written agreement by other necessary parties, modify or amend the terms and conditions of a loan provided that such modification or amendment shall be consistent with this regulation.

Subpart D—Loan Administration

§ 800.300 Loan servicing.

(a) Servicing of a loan under this regulation may be performed by DOE, by another Federal agency, or by a servicing agent (commercial bank, broker, or other financial institution or entity) having the capability, and legally qualified, to service the loan consistently with the requirements of this regulation, which contracts with DOE to act as servicing agent. In determining the capability of a prospective servicing agent, DOE shall give due consideration to the experience of the agent in providing financial services to minority business enterprises.

(b) If the servicing of the loan is by contract or other agreement, such contract or other agreement shall provide that the loan shall be serviced in accordance with this regulation and with the terms and conditions of the loan, under a standard of performance that a reasonable and prudent lender would require as to its own similar loan. Servicing responsibilities shall include, but not necessarily be limited to, the following:

(1) Loan disbursements as set forth in the loan agreement.

(2) Collection of principal and interest payments on a monthly basis.

(3) Maintenance of records on loan accounts.

(4) Notification of the Secretary, without delay, as to the following:

(i) That the initial disbursement or loan drawdown is ready to be made, together with evidence from the borrower that the bid or proposal preparation has begun or is about to begin.

(ii) The date and amount of each subsequent disbursement under the loan.

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(iii) Any nonreceipt of payment within 10 days after the date specified for payment, together with evidence of appropriate notification to the borrower.

(iv) Any known failure by the borrower to comply with the terms and conditions of the loan agreement.

(v) Evidence, if any, that the borrower is likely to default on any condition set forth in the loan agreement or may be unable to make the next scheduled payment of principal or interest.

(5) Submittal to DOE of periodic (semi-annual or annual) reports on the status and conditions of the loan and of the borrower.

§ 800.301 Monitoring.

The Secretary shall have the right to audit any and all costs of the bid or proposal for which the loan is sought or made and to exclude or reduce the includible amount of any cost in accordance with § 800.200. Auditors who are employees of the United States Government, who are designated by the Secretary of Energy or by the Comptroller General of the United States, shall have access to, and the right to examine, any directly pertinent documents and records of an applicant or borrower at reasonable times under reasonable circumstances. The servicing agent, if any, shall make information regarding the loan available to the Secretary of Energy and Comptroller General to the extent lawful and within its ability. The Secretary may direct the applicant or borrower to submit to an audit by public accountant or equivalent acceptable to the Secretary.

§ 800.302 Loan limitation.

The Secretary may limit the loan by written notice to the borrower to those amounts, if any, already disbursed under the loan, if the Secretary has determined that the borrower has failed to comply with a material term or condition set forth in the loan agreement.

§ 800.303 Assignment or transfer of loan.

Assignment or transfer of the loan and obligations thereunder may be made only with the prior written consent of the Secretary.